

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FAFARD REAL ESTATE &
DEVELOPMENT CORP.

Plaintiff,

VS.

NO. 04-11531-RGS

METRO-BOSTON BROADCASTING,
INC.,

Defendant.

**MOTION OF PLAINTIFF FAFARD REAL ESTATE & DEVELOPMENT
CORP.'S TO AMEND MEMORANDUM OF LIS PENDENS**

Plaintiff Fafard Real Estate & Development Corp. (“Fafard”) hereby moves this Court to amend the Memorandum of Lis Pendens endorsed on August 24, 2004, relating to the property of the Defendant, Metro-Boston Broadcasting, that is the subject of the above-captioned litigation.

As grounds therefor, Fafard states as follows:

1. Notwithstanding the lack of any requirement in Massachusetts G.L. c. 184, § 15, the lis pendens statute, to identify in the memorandum of lis pendens the record title owner of the real property subject to the dispute, the Title Examiner at the Land Court has refused to accept the Memorandum of Lis Pendens endorsed by the Court on August 24, 2004, for recording unless the name “Tower Sites, Ltd.” appears thereon.

2. Accordingly, Fafard requests that the Memorandum of Lis Pendens be amended to state as follows:

PLEASE TAKE NOTICE that on June 2, 2004, the plaintiff, Fafard Real Estate & Development Corp. ("Fafard") commenced an action in the Superior Court of Middlesex County, against the defendant, Metro-Boston Broadcasting, Inc., ("Metro-Boston"), **the general partner of Tower Sites, Limited**, C.A. No. 04-2282C, which was subsequently removed to the United States District Court for the District of Massachusetts, Case No. 04-11531-RGS, wherein Fafard seeks among other things, the enforcement of a Purchase and Sale Agreement for real estate located at Lots 6B, 12, and ten (10) acres of Lot 11 in Ashland, in Middlesex County of Massachusetts, **which is property that stands in the name of Tower Sites, Ltd.**

The proposed changes are indicated by the bold faced and underlined type above. A proposed amended Memorandum of Lis Pendens is attached hereto as Exhibit A.

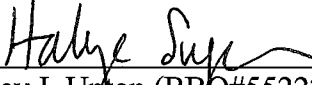
3. The Title Examiner has indicated that the above proposed amendment to the Memorandum of Lis Pendens is sufficient and will be accepted for recording.

WHEREFORE, for the foregoing reasons, Fafard requests that this Court endorse the amended Memorandum of Lis Pendens attached hereto as Exhibit A.

Respectfully submitted,

FAFARD REAL ESTATE &
DEVELOPMENT CORP.

By its attorneys,

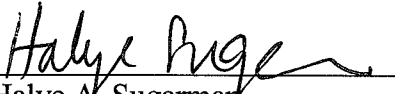


Jeffrey J. Upton (BBO#552221)
Halye A. Sugarman (BBO#646773)
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Professional Corporation
One Beacon Street
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(617) 423-0400

DATED: August 27, 2004
413318

LOCAL RULE 7.1 CERTIFICATE

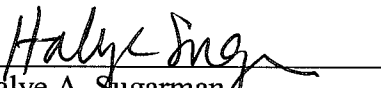
On Friday, August 27, 2004, I placed a call to counsel Kenneth R. Berman, counsel for defendant, in a good faith effort to narrow or resolve the issues presented by Fafard's motion to amend the Memorandum of Lis Pendens. Mr. Berman was unavailable. I intend to supplement this certificate after speaking with him. Given that this motion seeks to amend the endorsed Lis Pendens Memorandum that has been opposed by Defendant, and which Defendant has already moved to dissolve, I do not expect to reach agreement with Defendant's counsel on this motion to amend the Lis Pendens Memorandum.


Halye A. Sugarman

August 27, 2004

CERTIFICATE OF SERVICE

I, Halye A. Sugarman, certify that on August 27, 2004, I served a copy of the foregoing Motion to Amend Memorandum of Lis Pendens, by hand on, Kenneth R. Berman, Nutter McClennan & Fish, LLP, World Trade Center West, 155 Seaport Boulevard, Boston, MA 02110


Halye A. Sugarman